

HOME CONSUMPTION AND HOMEMADE FOOD ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Daniel Hemmert

LONG TITLE

General Description:

This bill modifies Title 4, Utah Agricultural Code.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ states that home-based producers may be exempt from certain state, county, or city regulations regarding the preparation, serving, use, consumption, or storage of food and food products that are:
 - produced and sold within the state;
 - sold directly to an informed final consumer; and
 - for home consumption.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

4-5a-101, Utah Code Annotated 1953

4-5a-102, Utah Code Annotated 1953

4-5a-103, Utah Code Annotated 1953



28 [4-5a-104](#), Utah Code Annotated 1953

29 [4-5a-105](#), Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **4-5a-101** is enacted to read:

33 **CHAPTER 5a. HOME CONSUMPTION AND HOMEMADE FOOD ACT**

34 **4-5a-101. Title.**

35 This chapter is known as the "Home Consumption and Homemade Food Act."

36 Section 2. Section **4-5a-102** is enacted to read:

37 **4-5a-102. Definitions.**

38 For purposes of this chapter:

39 (1) (a) "Commercial establishment" means a wholesale or retail business that displays,
40 sells, manufactures, processes, packs, holds, or stores food, drugs, devices, or cosmetics.

41 (b) "Commercial establishment" does not include a:

42 (i) direct-to-sale location; or

43 (ii) direct-to-sale farmers market.

44 (2) "Direct-to-sale farmers market" means a public or private facility or area where
45 producers gather on a regular basis to sell directly to an informed final consumer fresh food,
46 locally grown products, and other food items that have not been certified, licensed, regulated,
47 or inspected by state or local authorities.

48 (3) "Direct-to-sale location" means a farm, ranch, farmers market, home, office, or any
49 location agreed upon by both a producer and the informed final consumer where a producer
50 sells a food or food product to an informed final consumer.

51 (4) "Home consumption" means the use or ingestion of homemade food or a
52 homemade food product within a private home by a family member, an employee, or a
53 nonpaying guest.

54 (5) "Homemade food product" means a substance that can be used, or prepared for use,
55 as food or nonalcoholic drink, subject to the limitation described in Subsection [4-5a-105](#)(1).

56 (6) "Informed final consumer" means an individual who:

57 (a) purchases the product directly from the producer;

58 (b) does not resell the product; and

59 (c) has been informed that the product is not certified, licensed, regulated, or inspected
60 by the state.

61 (7) "Producer" means a person who harvests or produces homemade food or a
62 homemade food product.

63 Section 3. Section **4-5a-103** is enacted to read:

64 **4-5a-103. Regulation of a direct-to-sale farmers market.**

65 (1) A direct-to-sale farmers market selling homemade food under this chapter shall
66 display signage indicating to an informed final consumer that the homemade food and food
67 products sold by producers at the market have not been certified, licensed, regulated, or
68 inspected by state or local authorities.

69 (2) If the direct-to-sale farmers market is in any way associated with a farmers market
70 as defined in Subsection 4-5-102(5), the direct-to-sale farmers market section selling
71 homemade food under this chapter shall comply with the following requirements:

72 (a) the direct-to-sale farmers market section shall be separated from the farmers market
73 section; and

74 (b) the separate direct-to-sale farmers market section shall include signs or other
75 markings clearly indicating which space is the farmers market space offering inspected items
76 for sale and which space is the direct-to-sale farmers market space offering items that are
77 uninspected.

78 (3) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
79 Administrative Rulemaking Act, regarding the signage described in Subsection (1).

80 Section 4. Section **4-5a-104** is enacted to read:

81 **4-5a-104. Home producer direct sales -- Exempt from regulation.**

82 (1) A producer is exempt from state, county, or city licensing, permitting, certification,
83 inspection, packaging, and labeling requirements, except as described in this section, related to
84 the preparation, serving, use, consumption, or storage of food and food products if:

85 (a) the producer complies with the requirements of this chapter; and

86 (b) the homemade food or homemade food product is:

87 (i) produced and sold within the state;

88 (ii) sold directly to an informed final consumer;

89 (iii) for home consumption; and

90 (iv) not exempted under Subsection 4-5a-105(1).
91 (2) Food or food products sold under this section shall be labeled with:
92 (a) the producer's name and address;
93 (b) a disclosure statement indicating that the product is:
94 (i) not for resale; and
95 (ii) processed and prepared without state or local inspection; and
96 (c) a statement listing whether the food or food product contains, or was prepared in a
97 location that also handles, common allergens including milk, soy, wheat, eggs, peanuts, or tree
98 nuts.

99 (3) (a) Except as provided in Subsection (3)(b), homemade food or a homemade food
100 product that is exempt from certain regulations as described in this chapter may not be sold to,
101 or used by, a restaurant or commercial establishment.

102 (b) A producer may sell a raw, unprocessed fruit or vegetable to a restaurant or
103 commercial establishment.

104 (4) A producer selling homemade food or homemade food products exempt under this
105 section shall inform the final consumer that the food or food product is not certified, licensed,
106 regulated, or inspected by the state or any county or city.

107 Section 5. Section **4-5a-105** is enacted to read:

108 **4-5a-105. Limitations.**

109 (1) This chapter does not apply to the sale of:

110 (a) raw dairy or raw dairy products; or

111 (b) meat products except:

112 (i) the sale of poultry and poultry products if the producer slaughters no more than
113 1,000 birds per year in accordance with the U.S.D.A. 1,000 bird exemption; and

114 (ii) domesticated rabbits, if the producer of the domesticated rabbits slaughters no more
115 than 1,000 rabbits per year.

116 (2) Nothing in this chapter:

117 (a) shall be construed to impede the Department of Health in an investigation of food
118 borne illness;

119 (b) prohibits a state agency from providing assistance, consulting, or inspecting when
120 requested by a producer; or

121 (c) affects the authority of the Department of Health or the Department of Agriculture
122 and Food to certify, license, regulate, or inspect food or food products that are not exempt from
123 certification, licensing, regulation, or inspection as described in this chapter.

124 (3) The department may not, by rule, impose an additional limit, requirement, or
125 restriction on a producer selling food or a food product under this chapter.

Legislative Review Note
Office of Legislative Research and General Counsel